

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

Civil Action No. 5:13-cv-427

MARKETEL MEDIA, INC., and)
SAMUEL T. HASSELL,)
)
Plaintiffs,)
)
v.)
)
MEDIAPOTAMUS, INC., and KELLY)
JENKINS ORTIZ,)
)
Defendants.)

NOTICE OF REMOVAL
TO FEDERAL COURT

Defendants, Mediapotamus, Inc., and Kelly Jenkins Ortiz (hereinafter “Defendants”), through counsel, respectfully remove the above-entitled action from the Superior Court of Wake County, North Carolina, to the United States District Court for the Eastern District of North Carolina, Western Division, pursuant to 28 U.S.C. §§ 1332, 1441, and 1446. In support of this Notice of Removal, the Defendants state as follows:

1. On May 15, 2013, Plaintiffs filed a civil action against Defendants in the Superior Court of Wake County, North Carolina, styled Marketel Media, Inc. and Samuel T. Hassell v. Mediapotamus, Inc. and Kelly Jenkins Ortiz, Court File No. 13-CVS-6922. Attached to this Notice as Exhibit A is a copy of the Complaint, Civil Summons, and Affidavit of Service issued in the Superior Court of Wake County. The Complaint, Civil Summons, and Affidavit of Service constitute all process, pleadings, and orders served upon Defendants in the state court action.

2. Defendants were served with and received the attached Summons and Complaint on May 16, 2013.

3. Less than thirty (30) days have passed since Defendants were served with the Complaint on May 16, 2013. The time within which Defendants are permitted to file this Notice of Removal under 28 U.S.C. § 1446 has not expired.

4. This action is between Plaintiff Marketel Media, Inc., a North Carolina corporation with offices and a principal place of business in Wake County, North Carolina, Plaintiff Samuel T. Hassell, a citizen and resident of Wake County, North Carolina, Mediapotamus, Inc., a California corporation with a principal place of business in California, and Kelly Jenkins Ortiz, a citizen of California.

5. Plaintiffs' Complaint alleges declaratory judgment and negligence claims. Based upon the allegations of damages sought in the body of the Complaint, including but not limited to claims for substantial monetary damage and expenses, counsel for Defendants states, upon information and belief, that the amount in controversy exceeds \$75,000.00, exclusive of interest and costs.

6. Pursuant to 28 U.S.C. § 1332, this Court would have had original diversity jurisdiction over this action when it was filed, and this case is properly removable under 28 U.S.C. §§ 1441 and 1446.

7. Removal to this District is proper because this is the District embracing the place where the action is pending.

8. Therefore, Defendants hereby file their Notice of Removal of this action from the aforesaid Superior Court of Wake County, North Carolina, in which it is now pending, to the United States District Court for the Eastern District of North Carolina, Western Division.

9. Concurrent with the filing of this Notice, Defendants are giving written notice of this Notice of Removal to the Superior Court of Wake County, North Carolina, and to Plaintiffs'

counsel pursuant to 28 U.S.C. § 1446(d). A copy of the state court notice is attached as Exhibit B.

WHEREFORE, Defendants pray that this action be removed from the Superior Court of Wake County, North Carolina, to the United States District Court for the Eastern District of North Carolina, Western Division, and request that this Court assume jurisdiction over this action, and proceed to final determination thereof.

This the 13th day of June, 2013.

/s/ DAN M. HARTZOG
N.C. State Bar No. 5648
Attorneys for Defendants
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CERTIFICATE OF SERVICE

I hereby certify that on June 13, 2013, I electronically filed the foregoing *Notice of Removal* with the Clerk of Court using the CM/ECF system, and will deposit the foregoing documents in the US Mail addressed to the following counsel:

William S. Cherry III
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Attorneys for Plaintiffs

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